

RETURN to an Order of the Honourable The House of Commons,
dated 26 June 1889;—for,

COPY "of the RECOMMENDATIONS made to the Government by the Land Commission as to an Amendment of those CLAUSES of the LAND ACT affecting LEASEHOLDERS and LABOURERS."

MINUTE on PROVISIONS of LAND LAW (IRELAND) ACT, 1881, as to
LEASEHOLDERS.

THE following may be said to be briefly the causes of the comparative inefficiency of the clause of the 21st section enabling the Court, under certain circumstances, to declare void certain leases accepted since the passing of the Act of 1870.

I. The restriction of the power of giving relief to tenants from year to year, to the exclusion of those who may have been compelled to accept a lease on the determination of their former tenancy.

II. The necessity that the terms of the lease should be not only unreasonable or unfair in themselves, but unreasonable or unfair, having regard to the provisions of the Act of 1870.

III. The fact that in a very large number of cases, possibly in the majority of the cases which have been heard, what the landlord set himself to procure by threat of eviction or undue influence was not the acceptance of a lease, but the payment of an increased rent, and the term complained of by the tenant as unreasonable or unfair to him was the payment of such increased rent. In very many cases it was a matter of indifference to the landlord whether the tenant took a lease or not, so that the increase of rent was obtained, and the tenant on the other hand either was indifferent on the subject of a lease (sometimes objecting solely on the score of the expense of taking it out), or else, when he saw that he was compelled to pay an increase of rent, desired to have a lease as a protection against further increase.

IV. Another ground on which some applications have failed is, that the lease comprised additional land beyond that held under the former tenancy, so that, as to portion of the land in the lease, the leaseholder had not been previously a tenant; and, as the clause gave no power to set aside a lease in part, the application to set it aside failed altogether.

If the clause were amended so as to admit to its benefits tenants whose leases or other tenancies were expiring, or had determined, and were further amended by not making the unreasonableness or unfairness of the terms depend upon their having relation to the Act of 1870, many leaseholders might avail themselves of the clause who are now excluded. But unless the amendment went further and embraced the cases mentioned above as No. III., it is to be feared that the result would be an amount of disappointment and discontent almost as great as has arisen from the results of the present clause.

The object aimed at by the clause was, it is apprehended, as follows:—

The 21st section provides for the inviolability of contracts of tenancy embodied in existing leases. But as it might happen that some of those leases

leases might be both unfair in themselves and unfairly obtained, the power was given of setting them aside (if procured since the Act 1870), and thus admitting such leaseholders to the benefit of the Act.

It is submitted that the principle of the clause extends to the case of the enforcement by unfair means of an increase of rent which was at the time unreasonable and unfair, and which was made unalterable for a fixed period by being reserved by a lease, and that relief might justly be given in such a case, although the rent which forms a term of the lease, and not the lease itself, was what the landlord sought to procure by threat of eviction or undue influence.

John O'Hagan.

MINUTE on PROVISIONS of LAND LAW (IRELAND) ACT, 1881, as to
LABOURERS' COTTAGES.

GREAT difficulty exists in enforcing the Orders of the Land Commission in respect of labourers' cottages.

No penalty is provided by the Act, and the only mode by which the Order can be enforced is by attachment for disobedience.

This is a process most unsuitable for the purpose.

If the provisions of the Statute are to be acted on and effectually pressed, a penalty must be imposed for non-compliance with the Order.

It is suggested that it should be enacted, that "in case of non-compliance with the Order of the Commission or Sub-Commission within the time and according to the direction limiting the same, the labourer or the landlord may, or the Clerk of the Union, when an Order shall have been made by the Land Commission in that behalf shall, proceed by summons at Petty Sessions against the party in default, and upon the production of a certified copy of the Order, and proof of non-compliance, the party bound by the Order shall be subjected to a penalty not exceeding twice the amount of the sum allowed by the Order to be charged for rent, and not less than the said amount, which penalty shall be payable weekly until the Order shall have been certified by the justices to have been complied with. The penalty shall be recovered in like manner as penalties under the Petty Sessions Act, and shall be paid in to the credit of the union in relief of the poor rates."

It can hardly be expected that the labourer will proceed to enforce the Order. The farmer is not bound to keep the labourer, and any hostile action on the labourer's part against his employer would lead to his dismissal. It is not to be expected that the landlord will move in the matter, as he has no inducement to force his tenant to comply. The result must be that the burden of enforcing the Order must rest upon the Land Commission or some local authority. Boards of guardians composed of tenant farmers will not be inclined to enforce the provisions of the Act, and consequently the Land Commission alone can be relied on for the purpose.

To enable the Commission to do so, it should have power to appoint and employ an inspector, whose duty it would be to visit the holdings and report to the Commission, and on his report the Commission should have power to direct a prosecution by either the Clerk of the Union, or by the Petty Session Clerk, or the Sub-Inspector (Royal Irish Constabulary) of the district, as may be deemed most desirable.

The entire question of labourers requires to be dealt with by separate and distinct legislation, but some such enactment as here suggested is required to give effect to the provision of the Land Law (Ireland) Act, 1881, in relation to labourers' cottages.

29 May 1882.

E. F. Litton.